

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

EVERGREEN INTERNATIONAL  
AIRLINES, INC.,

11-CV-01416-PK

ORDER

Plaintiff,

v.

ANCHORAGE ADVISORS, LLC;  
ANCHORAGE CAPITAL GROUP, LLC;  
NEXGEN AVIATION CAPITAL, LLC,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#26) on July 9, 2012, in which he recommended the Court grant in part and deny in part Defendants' Motion to Dismiss (#15) for Lack of Jurisdiction and Failure to State a Claim. Defendants filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to

28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In their Objections, Defendants reiterate the arguments contained in their Memorandum in Support of their Motion to Dismiss and their Reply and stated at oral argument. This Court has carefully considered Defendants' Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Papak's Findings and Recommendation (#26). Accordingly, the Court **GRANTS in part** and **DENIES in part** Defendants' Motion to Dismiss (#15) for Lack of Jurisdiction and Failure to State a Claim as follows:

1. **DENIES** Defendants' Motion to the extent that Defendants seek dismissal of Plaintiff's claims for lack of personal jurisdiction;

2. **DENIES** Defendants' Motion to the extent that Defendants seek dismissal of Plaintiff's claim for Intentional Interference with Contract for failure to state a claim;
3. **GRANTS** Defendants' Motion to the extent that Defendants seek dismissal of Plaintiff's unjust enrichment claim for failure to state claim; and
4. The Court **DISMISSES** Plaintiff's claim for unjust enrichment **without prejudice**.

Plaintiff may file **no later than September 10, 2012**, a motion before Magistrate Judge Papak requesting leave to file an amended complaint to cure the deficiencies of its claim for unjust enrichment.

IT IS SO ORDERED.

DATED this 20<sup>th</sup> day of August, 2012.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge